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August 7, 2001

VIA HAND DELIVERY

Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
Room 104
600 Pennsylvania Ave., N.W.
Washington, D.C.



Re: In re Schering-Plough Corporation, Upsher-Smith Laboratories and American Home Products Corporation, Docket No. 9297

Dear Judge Chappell:

Bayer Corporation (Bayer) received notice from Bradley Albert of the Federal Trade Commission (FTC) staff that American Home Products Corporation (AHP) filed a Motion to Compel Complaint Counsel to search the FTC for documents responsive to a document request previously filed by AHP on Complaint Counsel. Mr. Albert has advised us as counsel for Bayer that some of the documents potentially responsive to AHP's document request are documents Bayer produced in response to a subpoena issued in the Hoechst Marion Roussel, Inc., Carderm Capital L.P. and Andrx Corp., FTC Docket No. 9392 litigation, as well as documents Bayer produced in response to other subpoenas and/or civil investigative demands issued by the FTC. Bayer opposes AHP's document request to the extent it requests Bayer's information.

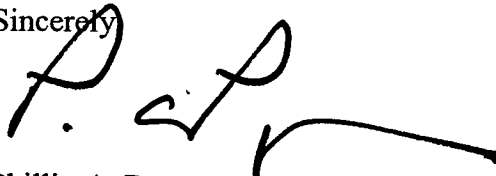
Bayer produced documents to the FTC under the FTC compulsory process and in so doing relied on the representations of the FTC and on the Protective Order entered by this court in the Cardizem proceeding that the documents would be kept confidential. Bayer considers the information sought by AHP to be sensitive commercial information, the disclosure of which could injure Bayer, particularly when the disclosure is to a competitor like AHP. Compounding this problem is the fact that disclosure to AHP likely results in disclosure to two other competitor pharmaceutical companies, Schering-Plough and Upsher-Smith.

Moreover, Bayer fails to see how its documents have relevance to this proceeding. Bayer has not produced any documents to the FTC that, to the best of Bayer's knowledge, relate to the FTC's investigation of Schering-Plough, Upsher-Smith or AHP. Consequently, the likely little or no value to AHP *et al* must be weighed against the significant potential prejudice to Bayer.

Honorable D. Michael Chappell
August 7, 2001
Page 2

Accordingly, Bayer strongly opposes AHP's motion to compel to the extent AHP seeks Bayer's documents. However, if this court decides that the documents should be produced, Bayer asks for a procedure to be set up requiring the FTC to identify to Bayer which Bayer documents the FTC intends to produce. Bayer then asks for a reasonable amount of time to review its documents (and if necessary re-designate) for confidentiality designations that are appropriate with the protections afforded by the Protective Order entered in this case. Bayer would then produce its documents to AHP.

Sincerely

A handwritten signature in black ink, appearing to read 'P. A. Proger', with a long horizontal flourish extending to the right.

Phillip A. Proger
Counsel for Bayer Corporation

cc: Counsel of Record

WA-1258091v1

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

-----)	
In the Matter of:)	
)	
Shearing-Plough Corporation,)	
a corporation,)	Docket No. 9297
)	
Upsher-Smith Laboratories,)	
a corporation,)	
)	
and)	
)	
American Home Products Corporation,)	
a corporation.)	
-----)	

CERTIFICATE OF SERVICE

I, Sarah M. Mathias, hereby certify that on August 7, 2001, I caused a correct copy of Bayer Corporation's letter regarding American Homes Product Corporation's Motion to Compel to be served upon the following persons by electronic mail and by hand delivery:

Office of the Secretary (via hand delivery)
Federal Trade Commission
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600 Pennsylvania Ave., N.W.
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Richard A. Feinstein (via hand delivery)
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Sarah M. Mathias
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